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SENATE BILL 273

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Richard C. Martinez

FOR THE RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE URANIUM LEGACY
CLEANUP ACT; PROVIDING FOR THE ADMINISTRATION OF THAT ACT AND
CLEANUP ACTIONS TO BE TAKEN PURSUANT TO IT; CREATING REVENUE
SOURCES TO FUND URANIUM LEGACY CLEANUP ACTIVITIES; AMENDING AND
ENACTING CERTAIN SECTIONS OF THE NMSA 1978; MAKING
APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 7 of this act may be cited as the "Uranium Legacy
Cleanup Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Uranium Legacy Cleanup Act:

- A. "board" means the uranium legacy cleanup board;
- B. "financial assistance" means providing grants or

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1 loans on terms and conditions approved by the board for
2 qualified projects;

3 C. "fund" means the uranium legacy cleanup fund;
4 and

5 D. "qualified project" means a project selected by
6 the board for financial assistance.

7 Section 3. [NEW MATERIAL] URANIUM LEGACY CLEANUP BOARD
8 CREATED.--

9 A. The "uranium legacy cleanup board" is created
10 and is administratively attached to the energy, minerals and
11 natural resources department. Staff for the board shall be
12 provided by the mining and minerals division of the energy,
13 minerals and natural resources department. It is not necessary
14 that members be appointed to the board nor that the board be
15 activated until such time as the fund receives money pursuant
16 to Subsection A of Section 5 of the Uranium Legacy Cleanup Act.

17 B. The board consists of seven voting members and
18 five nonvoting members.

19 C. The voting ex-officio members are:

20 (1) the secretary of energy, minerals and
21 natural resources, or the secretary's designee from the energy,
22 minerals and natural resources department, who shall be chair
23 of the board;

24 (2) the secretary of health, or the
25 secretary's designee from the department of health; and

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1 (3) the secretary of environment, or the
2 secretary's designee from the department of environment.

3 D. The following four voting members who shall have
4 knowledge of or experience with the extent of contamination
5 resulting from past uranium mining and milling activities in
6 northwest New Mexico, or with human health problems resulting
7 from exposure to such contamination, shall be appointed by the
8 governor:

9 (1) one person who is a member of the Pueblo
10 of Acoma or the Pueblo of Laguna;

11 (2) one person who is a member of the Navajo
12 Nation;

13 (3) one person who is a resident of New Mexico
14 and who has education and experience in the field of primary
15 health care or public health; and

16 (4) one person who is a resident of New Mexico
17 and who has education and experience in the field of uranium
18 mining and milling activities.

19 E. The five nonvoting members are:

20 (1) one representative from the federal
21 environmental protection agency, region 6, appointed by the
22 regional director;

23 (2) one representative from the federal
24 environmental protection agency, region 9, appointed by the
25 regional director;

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1 (3) one representative from the Albuquerque
2 area Indian health service, appointed by the area director;

3 (4) one representative from the Navajo area
4 Indian health service, appointed by the area director; and

5 (5) one representative from the Navajo Nation
6 environmental protection agency or division of natural
7 resources, appointed by the president of the Navajo Nation.

8 F. The board shall meet at the call of the chair,
9 or whenever four voting members submit a request in writing to
10 the chair, but not less than twice each calendar year. A
11 majority of voting members constitutes a quorum for the
12 transaction of business. The affirmative vote of at least a
13 majority of a quorum shall be necessary for an action to be
14 taken by the board.

15 G. Each appointed member of the board shall serve a
16 two-year term. Vacancies shall be filled by appointment by the
17 original appointing authority for the remainder of the
18 unexpired term.

19 H. Members of the board appointed by the governor
20 may receive per diem and mileage as provided for nonsalaried
21 public officers in the Per Diem and Mileage Act and shall
22 receive no other compensation, perquisite or allowance.

23 Section 4. [NEW MATERIAL] URANIUM LEGACY CLEANUP
24 BOARD--DUTIES.--The board shall:

25 A. adopt rules governing terms, conditions and

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1 priorities for providing financial assistance for the cleanup
2 of sites contaminated by uranium mining and milling activities
3 that occurred prior to July 1, 2008, including developing
4 application and evaluation procedures and forms and
5 qualifications for applicants and for projects;

6 B. provide financial assistance to applicants,
7 including state and tribal agencies, for qualified projects on
8 terms and conditions established by the board; and

9 C. authorize funding for qualified projects,
10 including:

11 (1) planning, designing, constructing and
12 operating qualified projects;

13 (2) developing engineering feasibility reports
14 for qualified projects;

15 (3) inspecting construction and operation of
16 qualified projects;

17 (4) providing special engineering services;

18 (5) completing environmental assessments or
19 archaeological clearances and other surveys for qualified
20 projects;

21 (6) acquiring land, easements or rights of
22 way; and

23 (7) paying legal costs and fiscal agent fees
24 associated with the implementation of qualified projects.

25 Section 5. [NEW MATERIAL] URANIUM LEGACY CLEANUP FUND--

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1 CREATED--PURPOSE--APPROPRIATIONS.--

2 A. The "uranium legacy cleanup fund" is created as
3 a nonreverting fund in the state treasury and shall be
4 administered by the energy, minerals and natural resources
5 department. The fund shall consist of money from distributions
6 of the uranium legacy cleanup surtax pursuant to Section
7 7-1-6.59 NMSA 1978, money that is repaid from loans approved by
8 the board and money that is appropriated, donated or otherwise
9 accrues to the fund. Money in the fund shall be invested by
10 the state investment officer in the manner that land grant
11 permanent funds are invested pursuant to Chapter 6, Article 8
12 NMSA 1978. Income from investment of the fund shall be
13 credited to the fund.

14 B. The energy, minerals and natural resources
15 department shall establish procedures and adopt rules as
16 required to administer the fund and to originate grants or
17 loans for qualified projects approved by the board.

18 C. Money in the fund is appropriated to the energy,
19 minerals and natural resources department to carry out the
20 purposes of the Uranium Legacy Cleanup Act by providing
21 financial assistance for qualified projects. Money shall be
22 disbursed from the fund only on warrant of the secretary of
23 finance and administration upon vouchers signed by the
24 secretary of energy, minerals and natural resources or the
25 secretary's authorized representative. Any unexpended or

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1 unencumbered balance remaining at the end of a fiscal year
2 shall not revert to the general fund.

3 Section 6. [NEW MATERIAL] LEGISLATIVE OVERSIGHT--RULE
4 REVIEW--REPORT.--

5 A. Rules proposed by the board and the energy,
6 minerals and natural resources department pursuant to the
7 Uranium Legacy Cleanup Act shall be reviewed by the appropriate
8 interim legislative committee prior to approval.

9 B. The appropriate interim legislative committee
10 shall be briefed by the board on grant and loan proposals
11 submitted to the board and shall review, monitor and provide
12 assistance and advice concerning grants and loans proposed by
13 the board.

14 C. The board shall report to the appropriate
15 interim legislative committee no later than October 1 of each
16 year regarding the total expenditures from the fund for the
17 previous fiscal year, the purposes for which expenditures were
18 made, an analysis of the progress of the projects funded and
19 proposals for legislative action in the subsequent legislative
20 session.

21 Section 7. [NEW MATERIAL] QUALIFIED PROJECTS--FINANCIAL
22 ASSISTANCE.--

23 A. A qualified project shall have as a principal
24 objective the elimination or reduction of actual or potential
25 exposure of persons to contamination that may have resulted

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1 from uranium mining or milling activities that occurred prior
2 to July 1, 2008.

3 B. Financial assistance may be provided to
4 qualified projects in which the state of New Mexico, other
5 state governments, the federal government, tribal governments
6 and other public and private entities are participating.

7 Section 8. Section 7-1-6.20 NMSA 1978 (being Laws 1985,
8 Chapter 65, Section 6, as amended) is amended to read:

9 "7-1-6.20. IDENTIFICATION OF MONEY IN EXTRACTION TAXES
10 SUSPENSE FUND--DISTRIBUTION.--

11 A. Except as provided in Subsection B of this
12 section, after the necessary disbursements have been made from
13 the extraction taxes suspense fund, the money remaining in the
14 suspense fund as of the last day of the month shall be
15 identified by tax source and distributed or transferred in
16 accordance with the provisions of Sections 7-1-6.21 through
17 7-1-6.23 and 7-1-6.59 NMSA 1978. After the necessary
18 distributions and transfers, any balance, except for
19 remittances unidentified as to source or disposition, shall be
20 transferred to the general fund.

21 B. Payments on assessments issued by the department
22 pursuant to the Oil and Gas Conservation Tax Act, the Oil and
23 Gas Emergency School Tax Act, the Oil and Gas Ad Valorem
24 Production Tax Act and the Oil and Gas Severance Tax Act shall
25 be held in the extraction taxes suspense fund until the

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1 secretary determines that there is no substantial risk of
2 protest or other litigation, whereupon after the necessary
3 disbursements have been made from the extraction taxes suspense
4 fund, the money remaining in the suspense fund as of the last
5 day of the month attributed to these payments shall be
6 identified by tax source and distributed or transferred in
7 accordance with the provisions of Sections 7-1-6.21 through
8 7-1-6.23 NMSA 1978. After the necessary distributions and
9 transfers, any balance, except for remittance unidentified as
10 to source or disposition, shall be transferred to the general
11 fund."

12 Section 9. A new section of the Tax Administration Act,
13 Section 7-1-6.59 NMSA 1978, is enacted to read:

14 "7-1-6.59. [NEW MATERIAL] DISTRIBUTION TO URANIUM LEGACY
15 CLEANUP FUND--URANIUM LEGACY CLEANUP SURTAX.--A distribution
16 pursuant to Section 7-1-6.20 NMSA 1978 of the net receipts
17 attributable to the uranium legacy cleanup surtax shall be made
18 to the uranium legacy cleanup fund."

19 Section 10. A new section of the Resources Excise Tax Act
20 is enacted to read:

21 "[NEW MATERIAL] RATE AND MEASURE OF SURTAX--DENOMINATION
22 AS "URANIUM LEGACY CLEANUP SURTAX".--

23 A. For the privilege of severing or processing
24 uranium, there is imposed a uranium legacy cleanup surtax on
25 any severer or processor of uranium in New Mexico. The uranium

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1 legacy cleanup surtax shall be imposed at an amount equal to
2 the greater of:

3 (1) a rate of two percent on the taxable value
4 of uranium severed or processed; or

5 (2) one dollar (\$1.00) per pound of the
6 content of U308 contained in the severed and saved or processed
7 uranium, regardless of the form in which the product is
8 actually disposed of.

9 B. For the privilege of severing or processing in
10 New Mexico uranium that is owned by another person and not
11 otherwise taxed by Subsection A of this section, there is
12 imposed on the service charge of any person severing or
13 processing uranium owned by another person a uranium legacy
14 cleanup surtax at the same rate that would be imposed on an
15 owner of uranium for performing the same function."

16 Section 11. SEVERABILITY.--If any part or application of
17 the Uranium Legacy Cleanup Act is held invalid, the remainder
18 or its application to other situations or persons shall not be
19 affected.

20 Section 12. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is January 1, 2009.